

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.283 of 2018

K.Pavun

...Petitioner

Vs.

1. The Secretary,
Tamilnadu Constructions Workers' Welfare Board,
No.8, Valluvarkottam High Road,
Nungambakkam,
Chennai - 600 034.

2. The Regional Manager,
ICICI
Lombard General Insurance Co.Ltd.
No.140, Nungambakkam High Road,
Nungambakkam,
Chennai - 600 034.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st and 2nd respondents to forthwith disburse the compensation claim of rs.1,00,000/- (Rupees one lakh only) in favour of petitioner's husband (late Gunasekar) to the petitioner, as per first respondent's proceedings made in No.Oo 1/13429/2015 dated 24.11.2016.

For Petitioner : Mr.L.Chandrakumar

For Respondents: Mr.D.Suryanarayanan,
Additional Government Pleader
for R1
Mrs.Elveera Ravindran for R2

O R D E R

The petitioner seeks for a Mandamus directing the respondents to forthwith disburse the compensation claim of Rs.1,00,000/- in favour of the petitioner's husband as per the proceedings of the first respondent dated 24.11.2016.

2. The case of the petitioner in short is as follows:

Her husband, by name Gunasekar, was registered under the first respondent Board followed by a contractual agreement with the 2nd respondent entered by the 1st respondent between 10.05.2004 to 09.05.2007. As per the Scheme and the contractual obligation, any calamity or accident which is to take part or occur during the course of employment, that too, during the contractual period, it was incumbent upon the 2nd respondent to compensate by making payment as per the Scheme and schedule of amounts as prescribed therein. The respondent husband died on 28.09.2006 during the course of his employment. The said fact was brought to the notice of the 2nd respondent. The 1st respondent, however, by belated communication dated 24.11.2016 informed the 2nd respondent that the petitioner is entitled to get a sum of Rs.1,00,000/- towards the death of her husband by name Gunasekar. However, the 2nd respondent has not paid the said sum despite the communication issued by the 1st respondent as stated supra. Hence, the present writ petition is filed before this Court .

3. The 2nd respondent filed a counter affidavit, wherein it is stated that the petitioner's claim is a belated one and the writ petition is not maintainable. It is further stated in the counter that the 1st respondent Board had already informed that no further claims will be made after 2012.

4. Heard both sides.

5. It is seen that the petitioner was engaged as a labourer by the 1st respondent and during the course of such employment, he died on 28.09.2006. It is further seen that the 1st respondent entered into contractual agreement with the 2nd respondent for making payment to the persons who met with an accident during the course of such employment. There is no dispute to the fact that the 1st respondent has already issued a communication to the 2nd respondent to pay a sum of Rs.1,00,000/- to the petitioner due to the death of her husband as early as on 28.09.2006. Even though the death had occurred in the year 2006, it is not known as to why the 1st respondent had taken so much time to send the communication to the 2nd respondent, namely, communication dated 24.11.2016, to pay such amount. Therefore, the delay on the part of the 1st respondent cannot be put against the petitioner to deny the payment of meagre sum of Rs.1,00,000/- towards loss of life of her husband. The objections raised by the 2nd respondent in the counter affidavit is liable to be rejected at the threshold on the sole reason that the 1st respondent who is the employer of the petitioner's husband has already vouched the claim to compensate for the death of the petitioner's husband and also the payment liable to be paid to the petitioner. When

such being the position, the 2nd respondent cannot shift their liability by saying that such claim is a belated one.

6. I have already pointed out that the delay is not on the part of the petitioner and it is only on the part of the 1st respondent in communicating the death of the petitioner's husband and the compensation payable to the petitioner. Therefore, in all fairness, these respondents are liable to pay the said sum of Rs.1,00,000/- to the petitioner without loss of any further time. Accordingly, the Writ Petition is allowed and the respondents are directed to pay the said sum of Rs.1,00,000/- to the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Secretary,
Tamilnadu Constructions Workers' Welfare Board,
No.8, Valluvarkottam High Road,
Nungambakkam,
Chennai - 600 034.
2. The Regional Manager,
ICICI
Lombard General Insurance Co.Ltd.
No.140, Nungambakkam High Road,
Nungambakkam,
Chennai - 600 034.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.40311

+1cc to Mrs.Elveera Ravindran, Advocate, S.R.No.40094

W.P.No.283 of 2018

PMS (CO)
CS/27/04/2019